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LICENSING FEES - TEXAS

Builder Recovery Services, LLC v. Town of Westlake

Supreme Court of Texas - May 20, 2022 - S.W.3d - 2022 WL 1591976 - 65 Tex. Sup. Ct. J. 1151

Construction waste disposal business brought declaratory-judgment action, challenging town's power to pass ordinance requiring business to obtain license to conduct its business and seeking declaration that 15% license fee on business's gross revenue pursuant to ordinance was unlawful.

Business also sought to recover attorney fees. After bench trial, the District Court ruled in favor of business on its claim that 15% licensee fee was unlawful, awarded attorney fees in sum of $8,523, and ruled in favor of town on all other claims. Business appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. Plaintiff petitioned for review, which was granted.

The Supreme Court held that:

- Claim that town lacked authority to impose license fee based on any percentage of revenue was not mooted by intervening downward adjustment to the size of fee;
- General-law municipality's express power to regulate construction trash hauling did not include implied power to charge licensing fees based on a percentage of revenue; and
- Parties' failure to address severability warranted remand.

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